

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency After Notice

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby amends Chapter 314, “Renewable Fuel Infrastructure Program Administration,” Iowa Administrative Code.

This amendment is intended to address the situation in which a project is already completed when an award is made. The amendment changes the starting date for calculating the three- or five-year period during which the grant recipient must continue to dispense renewable fuel.

The current rules provide that a grant recipient must continue to dispense renewable fuel for a period of three or five years (duration varies by program component) from project completion. The three- or five-year period will have passed for projects already completed when the award is made. In such cases, the day the grant recipient signs the contract with IDED, the recipient will have met the three- or five-year “continued use of renewable fuel” requirement because the requirement is tied to the date of project completion (a date that has already occurred), not to a date stated in the contract.

The final amendment provides that, for completed projects, the three- or five-year continued-use obligation begins on the date of the first disbursement of grant funds by IDED, not on the date of project completion. For projects under construction or not yet begun, the three- or five-year continued-use obligation begins on the date the project is completed.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 7763B** on May 6, 2009. A public hearing was held on May 26, 2009. No comments concerning the proposed amendment were received from the public. There are no changes as a result of the public hearing. The final amendment is identical to the proposed amendment that was published under Notice of Intended Action.

The Iowa Economic Development Board adopted the amendment June 18, 2009.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b,” that the normal effective date of the amendment should be waived and the amendment be made effective upon filing with the Administrative Rules Coordinator on June 19, 2009. The emergency implementation is necessary because Renewable Fuel Infrastructure Board-approved completed projects cannot fulfill a contract requirement without this amendment. The amendment ensures that each contract between the Department and a recipient is fulfilled according to its three- or five-year term requirement.

The Department is taking the following steps to notify potentially affected parties of the effective date of the rule: publishing the final rules in the Iowa Administrative Bulletin, providing free copies on request, and having copies available wherever requests for information about the program are likely to be made.

This amendment is intended to implement Iowa Code sections 15G.201 to 15G.206.

This amendment became effective on June 19, 2009.

The following amendment is adopted.

Amend paragraph **314.5(2)“e”** as follows:

e. ~~Recite the penalty for the storage or dispensing, within the stated time frame of three years or five years from submission of verified documentation of project completion,~~ of motor fuel other than the type of renewable fuel for which the grant was awarded.

(1) Awards for projects under construction or not yet started. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the project is completed.

(2) Awards for projects already completed. The three- or five-year obligation to continue dispensing renewable fuel begins on the date the department issues the first disbursement of grant funds, not on the date of project completion.

[Filed Emergency After Notice 6/19/09, effective 6/19/09]

[Published 7/15/09]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/15/09.